

# **Exhibit A**



# NOTICE OF FAILURE TO MAKE REQUIRED CONTRIBUTIONS

PBGC Form 200  
Approved OMB 1212-0041  
Expires 03/31/2015

File this form to notify the Pension Benefit Guaranty Corporation of a failure to make required contributions (see ERISA section 303(k)(4)(A) and Code §430(k)(4)(A)) to a single-employer plan that is covered under ERISA section 4021.

- Do NOT file this form for any other employee benefit plan (e.g., a defined contribution plan).
- Do NOT file this form with the Internal Revenue Service.
- Do NOT file this form UNLESS the plan's funding target attainment percentage (see ERISA section 303(d)(2)/Code §430(d)(2)) is less than 100 percent.
- Do NOT file this form UNLESS the total of unpaid balances of required payments, including interest, exceeds \$1 million.

## Part I. General Plan Information

1a Plan Name Eber Bros. Wine & Liquor Corp. Retirement Plan

b Plan year commencement date 06 - 01 - 2012  
Month Day Year

2 Plan Administrator

Eber Bros. Wine & Liquor Corp.

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

3a Contributing sponsor

Same

Name

Street Address

City, State, Zip

Telephone number

b Employer identification and  
plan numbers

9-digit EIN

16-0417450

3-digit PN

001

c Different EIN and/or PN used in  
previous filings with PBGC, DOL,  
or IRS. Enter "N/A" if not applicable.

9-digit EIN

3-digit PN

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4a Is the contributing sponsor in item 3a a member of a controlled group?

Yes ☒ No ☐

Eber Bros & Co.

b If you checked "YES" to item 4a, enter that contributing sponsor's parent (if none, enter "none").

Name

95 Allens Creek Road Building 2 suite 10

Street Address

Rochester, NY 14618

City, State, Zip

585-360-4240

Telephone number

Enter parent's 9-digit EIN

c If you checked "YES" to item 4a, are there any controlled group members other than the one(s) identified in item 3a and/or item 4b?

Yes ☐ No ☒

d If you checked "YES" to item 4c, submit the name, address, telephone number, and EIN of each controlled group member for which information is not provided in item 3a or item 4b and a description of the structure of the controlled group.

5a Is there more than one contributing sponsor?

Yes ☐ No ☒

b If you checked "YES" to item 5a, submit the name of each contributing sponsor and, for each contributing sponsor for which information is not provided in previous items, the address, telephone number, and EIN.

6 Authorized contact (if same as individual signing certification in item 12, enter "same").

Wendy Eber

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

## Part II. Plan Funding Information

7a Describe the required payment that resulted in the requirement to notify the PBGC.

The quarterly payment due on 06/15/2013 was not paid.

b Due date for the required payment described in item 7a.

06 - 15 - 2013  
Month Day Year

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8a Total of unpaid balances of required payments (including interest).

\$ 1,808,068

b Describe how the amount in item 8a was determined.

The above amount is the balance of the minimum funding for the year ended 05/31/12 along with the four missed quarterly deposits for the year ending May 31, 2013 adjusted for interest through 08/15/13.

9 Submit the following documentation and information with this form:

- a Copy of most recent plan actuarial valuation report;
- b Copy of Form 5500, Schedule SB, for most recent plan year for which filed;
- c Copy of any IRS letter(s) granting or modifying a funding waiver and/or an extension of the amortization period; and
- d Statement describing any pending request(s) for a funding waiver and/or for an extension of the amortization period.

#### Part III. Contributing Sponsor & Controlled Group Financial Information

10 Submit the following documentation with this form with respect to the contributing sponsor in item 3a and each other member of the controlled group as that contributing sponsor:

- a Copies of financial statements for the most recent three fiscal years for which available, and of the most recent interim financial statements;
- b Copies of any SEC filings during the past 6 months, including Form 10-K, Form 10-Q, and Form 8-K; and
- c If any member of the controlled group currently is the subject of a bankruptcy, insolvency, receivership, or similar proceeding, copies of any Statement of Affairs, Disclosure Statement, and Plan of Reorganization (or similar filing(s)) and interim financial reports filed in such proceeding.

#### Part IV. Certifications

11 Enrolled Actuary Certification:

I certify that, to the best of my knowledge and belief, the information contained in items 7 and 8 of this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

Michael A. Gallagher

Name

11-03161

Enrollment number

Benefits Management, Inc.

Company/ Firm

Signature

355 Packetts Landing

Street Address

Fairport, NY 14450

City, State, Zip

(585) 425-4333

Telephone number

06/28/2013

Date

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**12 Contributing Sponsor or Parent Certification:**

I certify to the best of my knowledge and belief, the information the information contained in items 7 and 8 on this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

<u>Wendy Eber</u>	<u>95 Allens Creek Road, Building 2, Suite 10</u>
Name and title	Street Address
<u>Eber Bros. Wine &amp; Liquor Corp.</u>	<u>Rochester, NY 14618</u>
Name of contributing sponsor or parent	City, State, Zip
	<u>(585) 360-4240</u>
	Telephone number
<u>Wendy Eber</u>	<u>7/12/13</u>
Signature	Date

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<b>SCHEDULE SB</b> <b>(Form 5500)</b>  Department of the Treasury Internal Revenue Service  Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	<b>Single-Employer Defined Benefit Plan</b> <b>Actuarial Information</b>  This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6059 of the Internal Revenue Code (the Code).  <b>File as an attachment to Form 5500 or 5500-SF.</b>	OMB No. 1210-0110  <b>2011</b>  This Form is Open to Public Inspection
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For calendar plan year 2011 or fiscal plan year beginning 06/01/2011 and ending 05/31/2012

▶ Round off amounts to nearest dollar.

▶ Caution: A penalty of \$1,000 will be assessed for late filing of this report unless reasonable cause is established.

<b>A Name of plan</b> EBER BROS. WINE & LIQUOR CORP. RETIREMENT PLAN	<b>B Three-digit plan number (PN)</b> ▶	001
<b>C Plan sponsor's name as shown on line 2a of Form 5500 or 5500-SF</b> EBER BROS. WINE & LIQUOR CORP.	<b>D Employer Identification Number (EIN)</b> 16-0417450	
<b>E Type of plan:</b> <input checked="" type="checkbox"/> Single <input type="checkbox"/> Multiple-A <input type="checkbox"/> Multiple-B <input type="checkbox"/> Other		
<b>F Prior year plan size:</b> <input type="checkbox"/> 100 or fewer <input checked="" type="checkbox"/> 101-500 <input type="checkbox"/> More than 500		

Basic Information			
<b>1</b>	Enter the valuation date: Month <u>06</u> Day <u>01</u> Year <u>2011</u>		
<b>2</b>	<b>Assets:</b>		
	<b>a</b> Market value .....	<b>2a</b>	5240654
	<b>b</b> Actuarial value .....	<b>2b</b>	5240654
<b>3</b>	<b>Funding target/participant count breakdown:</b>	(1) Number of participants	(2) Funding Target
	<b>a</b> For retired participants and beneficiaries receiving payment .....	<b>3a</b>	184
	<b>b</b> For terminated vested participants .....	<b>3b</b>	246
	<b>c</b> For active participants:		
	(1) Non-vested benefits .....	<b>3c(1)</b>	0
	(2) Vested benefits .....	<b>3c(2)</b>	0
	(3) Total active .....	<b>3c(3)</b>	0
	<b>d</b> Total .....	<b>3d</b>	430
<b>4</b>	If the plan is in at-risk status, check the box and complete lines (a) and (b)..... <input type="checkbox"/>		
	<b>a</b> Funding target disregarding prescribed at-risk assumptions.....	<b>4a</b>	
	<b>b</b> Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been in at-risk status for fewer than five consecutive years and disregarding loading factor.....	<b>4b</b>	
<b>5</b>	Effective interest rate .....	<b>5</b>	5.65 %
<b>6</b>	Target normal cost .....	<b>6</b>	75000

**Statement by Enrolled Actuary**  
 To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

Signature of actuary MICHAEL A. GALLAGHER Type or print name of actuary BENEFITS MANAGEMENT, INC. Firm name 355 PACKETTS LANDING FAIRPORT NY 14450 Address of the firm	Date 11-03161 Most recent enrollment number 585-425-4333 Telephone number (including area code)
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If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions ☐

For Paperwork Reduction Act Notice and OMB Control Numbers, see the Instructions for Form 5500 or 5500-SF.

Schedule SB (Form 5500) 2011  
v.012611

Schedule SB (Form 5500) 2011

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Beginning of year carryover and prefunding balances		
	(a) Carryover balance	(b) Prefunding balance
7 Balance at beginning of prior year after applicable adjustments (line 13 from prior year)	0	0
8 Portion elected for use to offset prior year's funding requirement (line 35 from prior year)	0	0
9 Amount remaining (line 7 minus line 8)	0	0
10 Interest on line 9 using prior year's actual return of _____ %		
11 Prior year's excess contributions to be added to prefunding balance:		
a Present value of excess contributions (line 38 from prior year)		17676
b Interest on (a) using prior year's effective rate of <u>6.45</u> % except as otherwise provided (see instructions)		1140
c Total available at beginning of current plan year to add to prefunding balance		18816
d Portion of (c) to be added to prefunding balance		0
12 Other reductions in balances due to elections or deemed elections	0	0
13 Balance at beginning of current year (line 9 + line 10 + line 11d - line 12)	0	0

Funding percentages		
14 Funding target attainment percentage	14	62.23 %
15 Adjusted funding target attainment percentage	15	62.23 %
16 Prior year's funding percentage for purposes of determining whether carryover/prefunding balances may be used to reduce current year's funding requirement	16	58.40 %
17 If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage.	17	62.23 %

Contributions and liquidity shortfalls					
18 Contributions made to the plan for the plan year by employer(s) and employees:					
(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees	(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees
03/14/2012	203000				
Totals ▶			18(b)	203000	18(c) 0

19 Discounted employer contributions -- see instructions for small plan with a valuation date after the beginning of the year:	
a Contributions allocated toward unpaid minimum required contributions from prior years.	19a 0
b Contributions made to avoid restrictions adjusted to valuation date	19b 0
c Contributions allocated toward minimum required contribution for current year adjusted to valuation date	19c 190013
20 Quarterly contributions and liquidity shortfalls:	
a Did the plan have a "funding shortfall" for the prior year?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b If 20a is "Yes," were required quarterly installments for the current year made in a timely manner?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
c If 20a is "Yes," see instructions and complete the following table as applicable:	

Liquidity shortfall as of end of quarter of this plan year			
(1) 1st	(2) 2nd	(3) 3rd	(4) 4th
0	0	0	0



Schedule SB (Form 5500) 2011

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**Part IV Assumptions used to determine funding target and target normal cost**

<b>21 Discount rate:</b>			
<b>a Segment rates:</b>	1st segment: 2.27 %	2nd segment: 5.43 %	3rd segment: 6.34 %
			<input type="checkbox"/> N/A, full yield curve used
<b>b Applicable month (enter code)</b>			<b>21b</b> 0
<b>22 Weighted average retirement age</b>			<b>22</b> 65
<b>23 Mortality table(s) (see instructions)</b>	<input type="checkbox"/> Prescribed - combined <input checked="" type="checkbox"/> Prescribed - separate <input type="checkbox"/> Substitute		

**Part V Miscellaneous items**

<b>24</b> Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If "Yes," see instructions regarding required attachment.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>25</b> Has a method change been made for the current plan year? If "Yes," see instructions regarding required attachment.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>26</b> Is the plan required to provide a Schedule of Active Participants? If "Yes," see instructions regarding required attachment.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>27</b> If the plan is eligible for (and is using) alternative funding rules, enter applicable code and see instructions regarding attachment.	<b>27</b>

**Part VI Reconciliation of unpaid minimum required contributions for prior years**

<b>28</b> Unpaid minimum required contributions for all prior years	<b>28</b>	0
<b>29</b> Discounted employer contributions allocated toward unpaid minimum required contributions from prior years (line 19a)	<b>29</b>	0
<b>30</b> Remaining amount of unpaid minimum required contributions (line 28 minus line 29)	<b>30</b>	0

**Part VII Minimum required contribution for current year**

<b>31 Target normal cost and excess assets (see instructions):</b>			
<b>a Target normal cost (line 6)</b>	<b>31a</b>	75000	
<b>b Excess assets, if applicable, but not greater than 31a</b>	<b>31b</b>	0	
<b>32 Amortization installments:</b>	<b>Outstanding Balance</b>		<b>Installment</b>
<b>a Net shortfall amortization installment</b>	2744196		671496
<b>b Waiver amortization installment</b>	435433		153288
<b>33</b> If a waiver has been approved for this plan year, enter the date of the ruling letter granting the approval (Month _____ Day _____ Year _____) and the waived amount	<b>33</b>		
<b>34</b> Total funding requirement before reflecting carryover/prefunding balances (lines 31a - 31b + 32a + 32b - 33)	<b>34</b>	899784	
	<b>Carryover balance</b>	<b>Prefunding balance</b>	<b>Total balance</b>
<b>35</b> Balances elected for use to offset funding requirement			0
<b>36</b> Additional cash requirement (line 34 minus line 35)	<b>36</b>	899784	
<b>37</b> Contributions allocated toward minimum required contribution for current year adjusted to valuation date (line 19c)	<b>37</b>	190013	
<b>38 Present value of excess contributions for current year (see instructions)</b>			
<b>a Total (excess, if any, of line 37 over line 36)</b>	<b>38a</b>	0	
<b>b Portion included in line 38a attributable to use of prefunding and funding standard carryover balances</b>	<b>38b</b>		
<b>39</b> Unpaid minimum required contribution for current year (excess, if any, of line 36 over line 37)	<b>39</b>	709771	
<b>40</b> Unpaid minimum required contributions for all years	<b>40</b>	709771	

**Part VIII Pension funding relief under Pension Relief Act of 2010 (see instructions)**

<b>41</b> If a shortfall amortization base is being amortized pursuant to an alternative amortization schedule:			
<b>a Schedule elected</b>	<input type="checkbox"/> 2 plus 7 years <input type="checkbox"/> 15 years		
<b>b Eligible plan year(s) for which the election in line 41a was made</b>	<input type="checkbox"/> 2008 <input type="checkbox"/> 2009 <input type="checkbox"/> 2010 <input type="checkbox"/> 2011		
<b>42</b> Amount of acceleration adjustment	<b>42</b>		
<b>43</b> Excess installment acceleration amount to be carried over to future plan years	<b>43</b>		





# NOTICE OF FAILURE TO MAKE REQUIRED CONTRIBUTIONS

PBGC Form 200  
Approved OMB 1212-0041  
Expires 03/31/2015

File this form to notify the Pension Benefit Guaranty Corporation of a failure to make required contributions (see ERISA section 303(k)(4)(A) and Code §430(k)(4)(A)) to a single-employer plan that is covered under ERISA section 4021.

- Do NOT file this form for any other employee benefit plan (e.g., a defined contribution plan).
- Do NOT file this form with the Internal Revenue Service.
- Do NOT file this form UNLESS the plan's funding target attainment percentage (see ERISA section 303(d)(2)/Code §430(d)(2)) is less than 100 percent.
- Do NOT file this form UNLESS the total of unpaid balances of required payments, including interest, exceeds \$1 million.

## Part I. General Plan Information

1a Plan Name Eber Bros. Wine & Liquor Corp. Retirement Plan

b Plan year commencement date

06 - 01 - 2012  
Month Day Year

2 Plan Administrator

Eber Bros. Wine & Liquor Corp.

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

3a Contributing sponsor

Same

Name

Street Address

City, State, Zip

Telephone number

b Employer identification and  
plan numbers

9-digit EIN

16-0417450

3-digit PN

001

c Different EIN and/or PN used in  
previous filings with PBGC, DOL,  
or IRS. Enter "N/A" if not applicable.

9-digit EIN

3-digit PN

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- 4a Is the contributing sponsor in item 3a a member of a controlled group?

Yes ☒ No ☐

Eber Bros. & Co.

- b If you checked "YES" to item 4a, enter that contributing sponsor's parent (if none, enter "none").

Name

95 Allens Creek Road Building 2 suite 10

Street Address

Rochester, NY 14618

City, State, Zip

585-360-4240

Telephone number

Enter parent's 9-digit EIN

- c If you checked "YES" to item 4a, are there any controlled group members other than the one(s) identified in item 3a and/or item 4b?

Yes ☐ No ☒

- d If you checked "YES" to item 4c, submit the name, address, telephone number, and EIN of each controlled group member for which information is not provided in item 3a or item 4b and a description of the structure of the controlled group.

- 5a Is there more than one contributing sponsor?

Yes ☐ No ☒

- b If you checked "YES" to item 5a, submit the name of each contributing sponsor and, for each contributing sponsor for which information is not provided in previous items, the address, telephone number, and EIN.

- 6 Authorized contact (if same as individual signing certification in item 12, enter "same").

Wendy Eber

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

## Part II. Plan Funding Information

- 7a Describe the required payment that resulted in the requirement to notify the PBGC.

The quarterly payment due on 03/15/2013 was not paid.

- b Due date for the required payment described in item 7a.

03 - 15 - 2013  
Month Day Year

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8a Total of unpaid balances of required payments (including interest).

\$ 1,529,792

b Describe how the amount in item 8a was determined.

The above amount is the balance of the minimum funding for the year ended 05/31/12 along with the three missed quarterly deposits for the year ending May 31, 2013 adjusted for interest through 03/15/13.

9 Submit the following documentation and information with this form:

- a Copy of most recent plan actuarial valuation report;
- b Copy of Form 5500, Schedule SB, for most recent plan year for which filed;
- c Copy of any IRS letter(s) granting or modifying a funding waiver and/or an extension of the amortization period; and
- d Statement describing any pending request(s) for a funding waiver and/or for an extension of the amortization period.

### Part III. Contributing Sponsor & Controlled Group Financial Information

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- a Copies of financial statements for the most recent three fiscal years for which available, and of the most recent interim financial statements;
- b Copies of any SEC filings during the past 6 months, including Form 10-K, Form 10-Q, and Form 8-K; and
- c If any member of the controlled group currently is the subject of a bankruptcy, insolvency, receivership, or similar proceeding, copies of any Statement of Affairs, Disclosure Statement, and Plan of Reorganization (or similar filing(s)) and interim financial reports filed in such proceeding.

### Part IV. Certifications

11 Enrolled Actuary Certification:

I certify that, to the best of my knowledge and belief, the information contained in items 7 and 8 of this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

Michael A. Gallagher

Name

11-03161

Enrollment number

Benefits Management, Inc.

Company/ Firm,

Signature

355 Packetts Landing

Street Address

Fairport, NY 14450

City, State, Zip

(585) 425-4333

Telephone number

04/05/2013

Date

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**12 Contributing Sponsor or Parent Certification:**

I certify to the best of my knowledge and belief, the information the information contained in items 7 and 8 on this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

Wendy Eber

Name and title

Eber Bros. Wine & Liquor Corp.

Name of contributing sponsor or parent

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

Wendy Eber  
Signature

4/12/13  
Date

<b>SCHEDULE SB</b> <b>(Form 5500)</b> Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	<b>Single-Employer Defined Benefit Plan</b> <b>Actuarial Information</b> This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6059 of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500 or 5500-SF.	OMB No. 1210-0110 <b>2011</b> This Form is Open to Public Inspection
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For calendar plan year 2011 or fiscal plan year beginning 06/01/2011 and ending 05/31/2012

▶ Round off amounts to nearest dollar.

▶ Caution: A penalty of \$1,000 will be assessed for late filing of this report unless reasonable cause is established.

<b>A Name of plan</b> EBER BROS. WINE & LIQUOR CORP. RETIREMENT PLAN	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;"><b>B Three-digit plan number (PN)</b></td> <td style="width: 30%; text-align: center;">001</td> </tr> <tr> <td colspan="2" style="height: 20px;"></td> </tr> </table>	<b>B Three-digit plan number (PN)</b>	001		
<b>B Three-digit plan number (PN)</b>	001				
<b>C Plan sponsor's name as shown on line 2a of Form 5500 or 5500-SF</b> EBER BROS. WINE & LIQUOR CORP.	<b>D Employer Identification Number (EIN)</b> 16-0417450				
<b>E Type of plan:</b> <input checked="" type="checkbox"/> Single <input type="checkbox"/> Multiple-A <input type="checkbox"/> Multiple-B <input type="checkbox"/> Other					
<b>F Prior year plan size:</b> <input type="checkbox"/> 100 or fewer <input checked="" type="checkbox"/> 101-500 <input type="checkbox"/> More than 500					

Basic Information			
<b>1</b>	Enter the valuation date: Month <u>06</u> Day <u>01</u> Year <u>2011</u>		
<b>2</b>	<b>Assets:</b>		
	a Market value	<b>2a</b>	5240654
	b Actuarial value	<b>2b</b>	5240654
<b>3</b>	<b>Funding target/participant count breakdown:</b>	(1) Number of participants	(2) Funding Target
	a For retired participants and beneficiaries receiving payment	<b>3a</b>	184
	b For terminated vested participants	<b>3b</b>	246
	c For active participants:		
	(1) Non-vested benefits	<b>3c(1)</b>	0
	(2) Vested benefits	<b>3c(2)</b>	0
	(3) Total active	<b>3c(3)</b>	0
	d Total	<b>3d</b>	430
<b>4</b>	If the plan is in at-risk status, check the box and complete lines (a) and (b) <input type="checkbox"/>		
	a Funding target disregarding prescribed at-risk assumptions	<b>4a</b>	
	b Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been in at-risk status for fewer than five consecutive years and disregarding loading factor	<b>4b</b>	
<b>5</b>	Effective interest rate	<b>5</b>	5.65 %
<b>6</b>	Target normal cost	<b>6</b>	75000

**Statement by Enrolled Actuary**

To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

<div style="border: 1px solid black; height: 40px; margin-bottom: 5px;"></div> Signature of actuary MICHAEL A. GALLAGHER Type or print name of actuary BENEFITS MANAGEMENT, INC. Firm name 355 PACKETTS LANDING FAIRPORT NY 14450 Address of the firm	Date 11-03161 Most recent enrollment number 585-425-4333 Telephone number (including area code)
---	---

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions ☐

For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500 or 5500-SF.

Schedule SB (Form 5500) 2011  
v.012511

Schedule SB (Form 5500) 2011

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**Beginning of year carryover and prefunding balances**

	(a) Carryover balance	(b) Prefunding balance
<b>7</b> Balance at beginning of prior year after applicable adjustments (line 13 from prior year) .....	0	0
<b>8</b> Portion elected for use to offset prior year's funding requirement (line 35 from prior year) .....	0	0
<b>9</b> Amount remaining (line 7 minus line 8) .....	0	0
<b>10</b> Interest on line 9 using prior year's actual return of _____ % .....		
<b>11</b> Prior year's excess contributions to be added to prefunding balance:		
<b>a</b> Present value of excess contributions (line 38 from prior year) .....		17676
<b>b</b> Interest on (a) using prior year's effective rate of <u>6.45</u> % except as otherwise provided (see instructions) .....		1140
<b>c</b> Total available at beginning of current plan year to add to prefunding balance .....		18816
<b>d</b> Portion of (c) to be added to prefunding balance .....		0
<b>12</b> Other reductions in balances due to elections or deemed elections .....	0	0
<b>13</b> Balance at beginning of current year (line 9 + line 10 + line 11d - line 12) .....	0	0

**Funding percentages**

<b>14</b> Funding target attainment percentage .....	<b>14</b>	62.23 %
<b>15</b> Adjusted funding target attainment percentage .....	<b>15</b>	62.23 %
<b>16</b> Prior year's funding percentage for purposes of determining whether carryover/prefunding balances may be used to reduce current year's funding requirement .....	<b>16</b>	58.40 %
<b>17</b> If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage .....	<b>17</b>	62.23 %

**Contributions and liquidity shortfalls****18** Contributions made to the plan for the plan year by employer(s) and employees:

(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees	(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees
03/14/2012	203000				
<b>Totals ▶</b>		<b>18(b)</b>		203000	<b>18(c)</b>
					0

**19** Discounted employer contributions – see instructions for small plan with a valuation date after the beginning of the year:

<b>a</b> Contributions allocated toward unpaid minimum required contributions from prior years .....	<b>19a</b>	0
<b>b</b> Contributions made to avoid restrictions adjusted to valuation date .....	<b>19b</b>	0
<b>c</b> Contributions allocated toward minimum required contribution for current year adjusted to valuation date .....	<b>19c</b>	190013

**20** Quarterly contributions and liquidity shortfalls:

**a** Did the plan have a "funding shortfall" for the prior year? ☒ Yes ☐ No

**b** If 20a is "Yes," were required quarterly installments for the current year made in a timely manner? ☐ Yes ☒ No

**c** If 20a is "Yes," see instructions and complete the following table as applicable:

Liquidity shortfall as of end of quarter of this plan year			
(1) 1st	(2) 2nd	(3) 3rd	(4) 4th
0	0	0	0



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**Part V Assumptions used to determine funding target and target normal cost**

<b>21 Discount rate:</b>			
<b>a Segment rates:</b>	1st segment: 2.27 %	2nd segment: 5.43 %	3rd segment: 6.34 %
			<input type="checkbox"/> N/A, full yield curve used
<b>b Applicable month (enter code)</b>			<b>21b</b> 0
<b>22 Weighted average retirement age</b>			<b>22</b> 65
<b>23 Mortality table(s)</b> (see instructions)			<input type="checkbox"/> Prescribed - combined <input checked="" type="checkbox"/> Prescribed - separate <input type="checkbox"/> Substitute

**Part VI Miscellaneous items**

<b>24</b> Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If "Yes," see instructions regarding required attachment.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>25</b> Has a method change been made for the current plan year? If "Yes," see instructions regarding required attachment.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>26</b> Is the plan required to provide a Schedule of Active Participants? If "Yes," see instructions regarding required attachment.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>27</b> If the plan is eligible for (and is using) alternative funding rules, enter applicable code and see instructions regarding attachment		<b>27</b>

**Part VII Reconciliation of unpaid minimum required contributions for prior years**

<b>28</b> Unpaid minimum required contributions for all prior years	<b>28</b>	0
<b>29</b> Discounted employer contributions allocated toward unpaid minimum required contributions from prior years (line 19a)	<b>29</b>	0
<b>30</b> Remaining amount of unpaid minimum required contributions (line 28 minus line 29)	<b>30</b>	0

**Part VIII Minimum required contribution for current year**

<b>31 Target normal cost and excess assets (see instructions):</b>			
<b>a</b> Target normal cost (line 6)		<b>31a</b>	75000
<b>b</b> Excess assets, if applicable, but not greater than 31a		<b>31b</b>	0
<b>32 Amortization installments:</b>	<b>Outstanding Balance</b>		<b>Installment</b>
<b>a</b> Net shortfall amortization installment	2744196		671496
<b>b</b> Waiver amortization installment	435433		153288
<b>33</b> If a waiver has been approved for this plan year, enter the date of the ruling letter granting the approval (Month _____ Day _____ Year _____) and the waived amount		<b>33</b>	
<b>34</b> Total funding requirement before reflecting carryover/prefunding balances (lines 31a - 31b + 32a + 32b - 33)		<b>34</b>	899784
		<b>Carryover balance</b>	<b>Prefunding balance</b>
<b>35</b> Balances elected for use to offset funding requirement			0
<b>36</b> Additional cash requirement (line 34 minus line 35)		<b>36</b>	899784
<b>37</b> Contributions allocated toward minimum required contribution for current year adjusted to valuation date (line 19c)		<b>37</b>	190013
<b>38 Present value of excess contributions for current year (see instructions)</b>			
<b>a</b> Total (excess, if any, of line 37 over line 36)		<b>38a</b>	0
<b>b</b> Portion included in line 38a attributable to use of prefunding and funding standard carryover balances		<b>38b</b>	
<b>39</b> Unpaid minimum required contribution for current year (excess, if any, of line 36 over line 37)		<b>39</b>	709771
<b>40</b> Unpaid minimum required contributions for all years		<b>40</b>	709771

**Part IX Pension funding relief under Pension Relief Act of 2010 (see instructions)**

<b>41</b> If a shortfall amortization base is being amortized pursuant to an alternative amortization schedule:			
<b>a</b> Schedule elected		<input type="checkbox"/> 2 plus 7 years <input type="checkbox"/> 15 years	
<b>b</b> Eligible plan year(s) for which the election in line 41a was made		<input type="checkbox"/> 2008 <input type="checkbox"/> 2009 <input type="checkbox"/> 2010 <input type="checkbox"/> 2011	
<b>42</b> Amount of acceleration adjustment		<b>42</b>	
<b>43</b> Excess installment acceleration amount to be carried over to future plan years		<b>43</b>	





# NOTICE OF FAILURE TO MAKE REQUIRED CONTRIBUTIONS

PBGC Form 200  
Approved OMB 1212-0041  
Expires 03/31/2015

File this form to notify the Pension Benefit Guaranty Corporation of a failure to make required contributions (see ERISA section 303(k)(4)(A) and Code §430(k)(4)(A)) to a single-employer plan that is covered under ERISA section 4021.

- Do NOT file this form for any other employee benefit plan (e.g., a defined contribution plan).
- Do NOT file this form with the Internal Revenue Service.
- Do NOT file this form UNLESS the plan's funding target attainment percentage (see ERISA section 303(d)(2)/Code §430(d)(2)) is less than 100 percent.
- Do NOT file this form UNLESS the total of unpaid balances of required payments, including interest, exceeds \$1 million.

## Part I. General Plan Information

1a Plan Name Eber Bros. Wine & Liquor Corp. Retirement Plan

b Plan year commencement date

06 - 01 - 2012  
Month Day Year

2 Plan Administrator

Eber Bros. Wine & Liquor Corp.

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

3a Contributing sponsor

Same

Name

Street Address

City, State, Zip

Telephone number

b Employer identification and  
plan numbers

9-digit EIN

16-0417450

3-digit PN

001

c Different EIN and/or PN used in  
previous filings with PBGC, DOL,  
or IRS. Enter "N/A" if not applicable.

9-digit EIN

3-digit PN

**200-Page 2**

- 4a** Is the contributing sponsor in item 3a a member of a controlled group? Yes ☒ No ☐

- b** If you checked "YES" to item 4a, enter that contributing sponsor's parent (if none, enter "none").

Name

95 Allens Creek Road

Street Address

City, State, Zip

Telephone number

Enter parent's 9-digit EIN

- c** If you checked "YES" to item 4a, are there any controlled group members other than the one(s) identified in item 3a and/or item 4b?

Yes ☐No ☒

- d** If you checked "YES" to item 4c, submit the name, address, telephone number, and EIN of each controlled group member for which information is not provided in item 3a or item 4b and a description of the structure of the controlled group.

- 5a** Is there more than one contributing sponsor? Yes ☐ No ☒

- b** If you checked "YES" to item 5a, submit the name of each contributing sponsor and, for each contributing sponsor for which information is not provided in previous items, the address, telephone number, and EIN.

- 6** Authorized contact (if same as individual signing certification in item 12, enter "same").

Wendy Eber

Name

95 Allens Creek Road, Building 2, Suite 10

Street Address

Rochester, NY 14618

City, State, Zip

(585) 360-4240

Telephone number

**Part II. Plan Funding Information**

- 7a** Describe the required payment that resulted in the requirement to notify the PBGC.

The minimum funding requirement of \$805,119 for the year ended May 31, 2012 that was due on 02/15/13 was not paid.

- b** Due date for the required payment described in item 7a.

02

Month

-

15

Day

-

2013

Year

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8a Total of unpaid balances of required payments (including interest).

\$ 1,283,172

b Describe how the amount in Item 8a was determined.

The above amount is the balance of the minimum funding for the year ended 05/31/12 along with the two missed quarterly deposits for the year ending May 31, 2013 adjusted for interest through 02/15/13.

9 Submit the following documentation and information with this form:

- a Copy of most recent plan actuarial valuation report;
- b Copy of Form 5500, Schedule SB, for most recent plan year for which filed;
- c Copy of any IRS letter(s) granting or modifying a funding waiver and/or an extension of the amortization period; and
- d Statement describing any pending request(s) for a funding waiver and/or for an extension of the amortization period.

### Part III. Contributing Sponsor & Controlled Group Financial Information

10 Submit the following documentation with this form with respect to the contributing sponsor in Item 3a and each other member of the controlled group as that contributing sponsor:

- a Copies of financial statements for the most recent three fiscal years for which available, and of the most recent interim financial statements;
- b Copies of any SEC filings during the past 6 months, including Form 10-K, Form 10-Q, and Form 8-K; and
- c If any member of the controlled group currently is the subject of a bankruptcy, insolvency, receivership, or similar proceeding, copies of any Statement of Affairs, Disclosure Statement, and Plan of Reorganization (or similar filing(s)) and interim financial reports filed in such proceeding.

### Part IV. Certifications

11 Enrolled Actuary Certification:

I certify that, to the best of my knowledge and belief, the information contained in items 7 and 8 of this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

Michael A. Gallagher

Name

11-03161

Enrollment number

Benefits Management, Inc.

Company/ Firm

Signature

355 Packetts Landing

Street Address

Fairport, NY 14450

City, State, Zip

(585) 425-4333

Telephone number

Date

3/4/2013

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**12 Contributing Sponsor or Parent Certification:**

I certify to the best of my knowledge and belief, the information the information contained in Items 7 and 8 on this form is true, correct, and complete and conforms to all applicable laws and regulations. In making this certification, I recognize that knowingly and willfully making false, fictitious, or fraudulent statements to PBGC is punishable under 18 U.S.C. 1001.

<u>Wendy Eber</u>	<u>95 Allens Creek Road, Building 2, Suite 10</u>
<u>Name and title</u>	<u>Street Address</u>
<u>Eber Bros. Wine &amp; Liquor</u>	<u>Rochester, NY 14618</u>
<u>Name of contributing sponsor or parent</u>	<u>City, State, Zip</u>
	<u>(585) 360-4240</u>
	<u>Telephone number</u>
<u>Signature</u>	<u>Date</u>

---

<b>SCHEDULE SB</b> <b>(Form 5500)</b> Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	<b>Single-Employer Defined Benefit Plan</b> <b>Actuarial Information</b> This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6059 of the Internal Revenue Code (the Code). ▶ File as an attachment to Form 5500 or 5500-SF.	OMB No. 1510-0110 <b>2011</b> This Form is Open to Public Inspection
For calendar plan year 2011 or fiscal plan year beginning 06/01/2011 and ending 05/31/2012 ▶ Round off amounts to nearest dollar. ▶ Caution: A penalty of \$1,000 will be assessed for late filing of this report unless reasonable cause is established.		
<b>A Name of plan</b> EBER BROS. WINE & LIQUOR CORP. RETIREMENT PLAN		<b>B Three-digit plan number (PN)</b> 001
<b>C Plan sponsor's name as shown on line 2a of Form 5500 or 5500-SF</b> EBER BROS. WINE & LIQUOR CORP.		<b>D Employer Identification Number (EIN)</b> 16-0417450
<b>E Type of plan:</b> <input checked="" type="checkbox"/> Single <input type="checkbox"/> Multiple-A <input type="checkbox"/> Multiple-B <input type="checkbox"/> Other <b>F Prior year plan size:</b> <input type="checkbox"/> 100 or fewer <input checked="" type="checkbox"/> 101-500 <input type="checkbox"/> More than 500		
<b>Part I Basic Information</b>		
<b>1 Enter the valuation date:</b> Month <u>06</u> Day <u>01</u> Year <u>2011</u>		
<b>2 Assets:</b>		
a Market value	<b>2a</b>	5240654
b Actuarial value	<b>2b</b>	5240654
<b>3 Funding target/participant count breakdown:</b>		
		(1) Number of participants
a For retired participants and beneficiaries receiving payment	<b>3a</b>	184
b For terminated vested participants	<b>3b</b>	246
c For active participants:		(2) Funding Target
(1) Non-vested benefits	<b>3c(1)</b>	0
(2) Vested benefits	<b>3c(2)</b>	0
(3) Total active	<b>3c(3)</b>	0
d Total	<b>3d</b>	430
		8420283
<b>4 If the plan is in at-risk status, check the box and complete lines (a) and (b):</b> <input type="checkbox"/>		
a Funding target disregarding prescribed at-risk assumptions	<b>4a</b>	
b Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been in at-risk status for fewer than five consecutive years and disregarding loading factor	<b>4b</b>	
<b>5 Effective interest rate</b>	<b>5</b>	5.65 %
<b>6 Target normal cost</b>	<b>6</b>	75000
<b>Statement by Enrolled Actuary</b> To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.		
Signature of actuary MICHAEL A. GALLAGHER		Date 11-03161
Type or print name of actuary BENEFITS MANAGEMENT, INC.		Most recent enrollment number 585-425-4333
Firm name 355 PACKETTS LANDING FAIRPORT NY 14450		Telephone number (including area code)
Address of the firm		
If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, check the box and see instructions <input type="checkbox"/>		
For Paperwork Reduction Act Notice and OMB Control Numbers, see the instructions for Form 5500 or 5500-SF.		

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**Beginning of year carryover and prefunding balances**

	(a) Carryover balance	(b) Prefunding balance
<b>7</b> Balance at beginning of prior year after applicable adjustments (line 13 from prior year) .....	0	0
<b>8</b> Portion elected for use to offset prior year's funding requirement (line 35 from prior year) .....	0	0
<b>9</b> Amount remaining (line 7 minus line 8) .....	0	0
<b>10</b> Interest on line 9 using prior year's actual return of _____ % .....		
<b>11</b> Prior year's excess contributions to be added to prefunding balance:		
<b>a</b> Present value of excess contributions (line 38 from prior year) .....		17676
<b>b</b> Interest on (a) using prior year's effective rate of <u>6.45</u> % except as otherwise provided (see instructions) .....		1140
<b>c</b> Total available at beginning of current plan year to add to prefunding balance .....		18816
<b>d</b> Portion of (c) to be added to prefunding balance .....		0
<b>12</b> Other reductions in balances due to elections or deemed elections .....	0	0
<b>13</b> Balance at beginning of current year (line 9 + line 10 + line 11d - line 12) .....	0	0

**Funding percentages**

<b>14</b> Funding target attainment percentage .....	<b>14</b>	62.23 %
<b>15</b> Adjusted funding target attainment percentage .....	<b>15</b>	62.23 %
<b>16</b> Prior year's funding percentage for purposes of determining whether carryover/prefunding balances may be used to reduce current year's funding requirement .....	<b>16</b>	58.40 %
<b>17</b> If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage .....	<b>17</b>	62.23 %

**Contributions and liquidity shortfalls****18** Contributions made to the plan for the plan year by employer(s) and employees:

(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees	(a) Date (MM-DD-YYYY)	(b) Amount paid by employer(s)	(c) Amount paid by employees
03/14/2012	203000				
<b>Totals ▶</b>			<b>18(b)</b>	203000	<b>18(c)</b> 0

**19** Discounted employer contributions - see instructions for small plan with a valuation date after the beginning of the year:

<b>a</b> Contributions allocated toward unpaid minimum required contributions from prior years .....	<b>19a</b>	0
<b>b</b> Contributions made to avoid restrictions adjusted to valuation date .....	<b>19b</b>	0
<b>c</b> Contributions allocated toward minimum required contribution for current year adjusted to valuation date .....	<b>19c</b>	190013

**20** Quarterly contributions and liquidity shortfalls:

- a** Did the plan have a "funding shortfall" for the prior year? ☒ Yes ☐ No
- b** If 20a is "Yes," were required quarterly installments for the current year made in a timely manner? ☐ Yes ☒ No
- c** If 20a is "Yes," see instructions and complete the following table as applicable:

Liquidity shortfall as of end of quarter of this plan year			
(1) 1st	(2) 2nd	(3) 3rd	(4) 4th
0	0	0	0



Schedule SB (Form 5500) 2011

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**Part V Assumptions used to determine funding target and target normal cost**

<b>21 Discount rate:</b>			
<b>a Segment rates:</b>	1st segment: 2.27 %	2nd segment: 5.43 %	3rd segment: 6.34 %
			<input type="checkbox"/> N/A, full yield curve used
<b>b Applicable month (enter code)</b>			<b>21b</b> 0
<b>22 Weighted average retirement age</b>			<b>22</b> 65
<b>23 Mortality table(s) (see instructions)</b>	<input type="checkbox"/> Prescribed - combined <input checked="" type="checkbox"/> Prescribed - separate <input type="checkbox"/> Substitute		

**Part VI Miscellaneous items**

<b>24</b> Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If "Yes," see instructions regarding required attachment.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>25</b> Has a method change been made for the current plan year? If "Yes," see instructions regarding required attachment.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>26</b> Is the plan required to provide a Schedule of Active Participants? If "Yes," see instructions regarding required attachment.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>27</b> If the plan is eligible for (and is using) alternative funding rules, enter applicable code and see instructions regarding attachment.	<b>27</b>

**Part VII Reconciliation of unpaid minimum required contributions for prior years**

<b>28</b> Unpaid minimum required contributions for all prior years	<b>28</b>	0
<b>29</b> Discounted employer contributions allocated toward unpaid minimum required contributions from prior years (line 19a)	<b>29</b>	0
<b>30</b> Remaining amount of unpaid minimum required contributions (line 28 minus line 29)	<b>30</b>	0

**Part VIII Minimum required contribution for current year**

<b>31 Target normal cost and excess assets (see instructions):</b>			
<b>a</b> Target normal cost (line 6)	<b>31a</b>	75000	
<b>b</b> Excess assets, if applicable, but not greater than 31a	<b>31b</b>	0	
<b>32 Amortization installments:</b>	Outstanding Balance		Installment
<b>a</b> Net shortfall amortization installment	2744196		671496
<b>b</b> Waiver amortization installment	435433		153288
<b>33</b> If a waiver has been approved for this plan year, enter the date of the ruling letter granting the approval (Month _____ Day _____ Year _____) and the waived amount	<b>33</b>		
<b>34</b> Total funding requirement before reflecting carryover/prefunding balances (lines 31a - 31b + 32a + 32b - 33)	<b>34</b>	899784	
	Carryover balance	Prefunding balance	Total balance
<b>35</b> Balances elected for use to offset funding requirement			0
<b>36</b> Additional cash requirement (line 34 minus line 35)	<b>36</b>	899784	
<b>37</b> Contributions allocated toward minimum required contribution for current year adjusted to valuation date (line 19c)	<b>37</b>	190013	
<b>38 Present value of excess contributions for current year (see instructions)</b>			
<b>a</b> Total (excess, if any, of line 37 over line 36)	<b>38a</b>	0	
<b>b</b> Portion included in line 38a attributable to use of prefunding and funding standard carryover balances	<b>38b</b>		
<b>39</b> Unpaid minimum required contribution for current year (excess, if any, of line 36 over line 37)	<b>39</b>	709771	
<b>40</b> Unpaid minimum required contributions for all years	<b>40</b>	709771	

**Part IX Pension funding relief under Pension Relief Act of 2010 (see instructions)**

<b>41</b> If a shortfall amortization base is being amortized pursuant to an alternative amortization schedule:			
<b>a</b> Schedule elected	<input type="checkbox"/> 2 plus 7 years <input type="checkbox"/> 15 years		
<b>b</b> Eligible plan year(s) for which the election in line 41a was made	<input type="checkbox"/> 2008 <input type="checkbox"/> 2009 <input type="checkbox"/> 2010 <input type="checkbox"/> 2011		
<b>42</b> Amount of acceleration adjustment	<b>42</b>		
<b>43</b> Excess installment acceleration amount to be carried over to future plan years	<b>43</b>		



**ACTUARIAL VALUATION REPORT  
FOR THE  
EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN  
PREPARED AS OF JUNE 1, 2011  
FOR THE PLAN YEAR ENDED MAY 31, 2012**

**Prepared By:  
BENEFITS MANAGEMENT, INC.  
355 PACKETT'S LANDING  
FAIRPORT, NEW YORK 14450  
(585) 425-4333**

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

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May 2, 2012

The Plan Administrator  
EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN  
c/o Ms. Wendy Eber  
Eber Bros. Wine & Liquor Corp.  
95 Allens Creek Road  
Building 2, Suite 10  
Rochester, NY 14618

**VALUATION CERTIFICATE**

This report has been prepared in accordance with generally accepted actuarial principles and practices as prescribed by the American Academy of Actuaries taking into account the rules and regulations published under the Internal Revenue Code and to the best of our knowledge reflects the actuarial status of the Eber Bros. Wine & Liquor Corp. Retirement Plan based on calculations performed as of June 1, 2011 for the Plan Year ended May 31, 2012.

In preparing this report, we have relied upon the completeness and accuracy of information, which was provided by the plan sponsor and the trustee including employee data, plan assets and the plan document.

The actuarial calculations outlined in this report were prepared on the basis of actuarial assumptions which, in our opinion, are appropriate for purposes of determining the funding levels under the plan and are reasonable based upon past experience and taking into account our best estimate of anticipated future experience under the plan.

The undersigned is a member of the American Academy of Actuaries and meets the Qualification Standards of the Academy of Actuaries to render the actuarial opinion herein.

Respectfully submitted,

Benefits Management, Inc.

---

Michael A. Gallagher  
ERISA Enrolled Actuary No. 11-3161  
Associate, Society of Actuaries  
Member, American Academy of Actuaries  
Member, American Society of Pension Actuaries

---

Christopher J. Trapatsos, CPC, CEBS  
Actuarial Assistant

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

JUNE 1, 2011

**SUMMARY OF VALUATION RESULTS**

**Comparative Summary of the Principal Results of this and the Preceding Actuarial Valuation.**

	Prior Year June 1, 2010- <u>May 31, 2011</u>	Current Year June 1, 2011- <u>May 31, 2012</u>
1. Active Participants as of the Valuation Date Under the Assumed Retirement Age	0	0
2. Minimum Required Contribution		
- as of the End of the Plan Year	\$863,000	\$950,622
- as of 02/15 of the Following Year	\$936,282	\$1,026,795
3. Maximum Deductible Contribution		
- as of the End of the Plan Year	\$4,135,919	\$3,690,983
- as of 02/15 of the Following Year	\$4,135,919	\$3,690,983
4. Pension Expense/(Income)	\$500,592	\$455,618
5. Actuarial Present Value of Accumulated Plan Benefits as of the Valuation Date		
- Vested	\$7,807,598	\$7,601,949
- Non-Vested	<u>0</u>	<u>0</u>
- Total	\$7,807,598	\$7,601,949
6. Net Assets Available to Pay Benefits as of the Valuation Date	\$4,588,491	\$5,241,082

**EBER BRÖS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**COMMENTS ON THE ACTUARIAL VALUATION**

Outlined below is a brief summary of some of the key changes in the valuation data along with an analysis of the impact of the changes on plan liabilities and on the associated contribution levels.

**Participant Data**

The number of participants included in the valuation decreased by 2 from 432 to 430.

**Assets**

The market value of assets increased by \$652,591 from \$4,588,491 to \$5,241,082 (a change of 14.22%). The approximate annual rate of return for the period ended May 31, 2011 was 15.83%.

**Contribution Levels**

The minimum required contribution in order to prevent a funding deficiency for the plan year ending May 31, 2012 is \$950,622. This assumes that any required quarterly deposits are deposited in a timely fashion. The maximum deductible contribution for the plan year ending May 31, 2012 is \$3,690,983.

**Funded Status of the Plan**

The actuarial value of accumulated plan benefits decreased from \$7,807,598 to \$7,601,949. Together with the change in plan assets, this represents an increase in the funded status of the plan on an ongoing plan basis (expressed as a percentage of market value of plan assets) from 59% to 69%. This reflects the amount of funds needed in the plan as of the valuation date to fund all accrued monthly benefits when they become payable at retirement age assuming that the assets achieve a long term rate of return of 7.5%.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION I**

**SUMMARY OF PLAN PROVISIONS**

**A. EFFECTIVE DATE:**

The effective date of this plan is April 1, 1954. The plan was most recently amended effective December 31, 2000.

On March 30, 2007, the company was sold to Southern Wine & Spirits, resulting in the termination of employment of over 90% of the active employees participating in the plan.

**B. ELIGIBILITY:**

Employees will become Participants in the Plan on June 1<sup>st</sup> or December 1<sup>st</sup> coinciding with or next following the completion of one year of service.

Participation was frozen effective December 31, 2000.

**C. PLAN CONTRIBUTIONS:**

The employer pays the full cost of the plan.

**D. NORMAL RETIREMENT:**

Upon attainment of age 65, a Participant may retire.

The benefit is calculated as follows:

0.80% of five year average earnings multiplied by Years of Benefit Accrual Service.

plus

0.55% of the Excess Amount multiplied by Years of Benefit Accrual Service to a maximum of 35 years. The Excess Amount is the five-year average earnings in excess of the participant's Covered Compensation.

Benefits were frozen as of December 31, 2000.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION I**

**SUMMARY OF PLAN PROVISIONS  
(CONTINUED)**

**E. EARLY RETIREMENT:**

Participants with at least 5 Years of Service may retire between ages 55 and 65. The benefit would be reduced 5% for each year prior to the normal retirement date.

**F. LATE RETIREMENT:**

A Participant who remains employed after Normal Retirement will continue to earn credit until actual retirement.

**G. VESTED BENEFIT:**

An employee will be 100% vested upon completion of 5 years of service.

All Active participants as of December 31, 2000 became 100% vested.

**H. NORMAL FORM OF PAYMENT:**

The normal form of payment is a life annuity.

**I. DEATH BENEFITS:**

Married Participants who are vested are covered by a death benefit. The benefit to the surviving spouse will be equal to the benefit they would have been entitled to if the Participant has survived to his earliest retirement date, and retired under a joint and contingent annuity prior to his death.



**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION II**

**FINANCIAL SUMMARY (UNAUDITED)**

**Receipts and Disbursements of the Fund for the Plan Year Ending on the Valuation Date**

(1) Fund Balance at Market Value as of the Prior Valuation Date		\$4,588,491
(2) Employer Contributions		\$873,404
(3) Investment Income		
(a) Interest and Dividends	\$187,755	
(b) Realized Gain / (Loss)	45,906	
(c) Unrealized Gain / (Loss)	436,928	
(d) Investment Expenses	(34,560)	
(e) Other	<u>(4,696)</u>	
(f) Net Investment Income		\$631,333
(4) Disbursements		
(a) Benefit Payments	\$778,781	
(b) Administrative Expenses	25,935	
(c) Other (PBGC premium)	<u>47,430</u>	
(d) Total Disbursements		\$852,146
(5) Fund Balance at Market Value as of the Current Valuation Date		\$5,241,082
(6) Plan Assets (Item 5 adjusted for interest on deposits made after the end of the Plan Year)		\$5,240,654
(7) Approximate Annual Rate of Return		15.83%

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION III**

**RESULTS OF THE VALUATION**

**A. Development of the Funding Target as of  
the Current Valuation Date.**

(1) Actuarial Present Value of Accrued Benefits

(a) Active Participants	
Vested	\$0
Non-Vested	<u>\$0</u>
Total	\$0
(b) Terminated Vested Participants	\$2,738,106
(c) Retired Participants	<u>\$5,682,177</u>
(d) Total	\$8,420,283

**B. Development of the Funding Shortfall as of  
the Current Valuation Date.**

(1) Funding Target as of the Current Valuation Date	\$8,420,283
(2) Plan Assets	\$5,240,654
(3) Credit Balance	
- Carryover Balance	\$0
- Prefunding Balance	<u>\$0</u>
- Total	\$0
(4) Adjusted Plan Assets (2)-(3)	\$5,240,654
(5) Funding Shortfall (1) - (4)	\$3,179,629

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION III**

**RESULTS OF THE VALUATION  
(CONTINUED)**

**C. Development of Prior Funding Shortfalls.**

<u>Date Established</u>	<u>Amortization Charge</u>	<u>Amortization Factor</u>	<u>Remaining Base</u>
06/01/08 Shortfall (7 yr)	\$601,655	3.86878	\$2,327,671
06/01/09 Shortfall (7 yr)	\$37,401	4.78291	\$178,886
06/01/09 Waiver	\$153,288	2.84062	\$435,433
06/01/10 Shortfall (7 yr)	\$(46,635)	5.55059	<u>\$(258,852)</u>
Total			\$2,683,138

**D. Development of the Shortfall Amortization Charge  
as of the Current Valuation Date.**

(1) Funding Shortfall	\$3,179,629
(2) Existing Shortfall Amortization Bases	\$2,683,138
(3) Amortizable Funding Shortfall	\$496,491
(4) Seven Year Amortization Factor	6.27873
(5) Shortfall Amortization Charge	\$79,075

**E. Summary of Funding Shortfalls.**

<u>Date Established</u>	<u>Initial Amount</u>	<u>Remaining Amount</u>	<u>Amortization Charge</u>
06/01/08 Shortfall	\$3,572,726	\$2,327,671	\$601,655
06/01/09 Shortfall	\$220,561	\$178,886	\$37,401
06/01/09 Waiver	\$687,872	\$435,433	\$153,288
06/01/10 Shortfall	(\$281,208)	(\$258,852)	\$(46,635)
06/01/11 Shortfall	\$496,491	<u>\$496,491</u>	<u>\$79,075</u>
Total		\$3,179,629	\$824,784

**F. Target Normal Cost for Participants Accruing  
Benefits During the Year**

(1) Basic Target Normal Cost	\$0
(2) Assumed Plan Expenses	<u>\$75,000</u>
(3) Total Target Normal Cost	\$75,000

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION IV**

**CONTRIBUTION LEVELS**

**A. Excess Contributions / Funding Balances for Prior Year**

1. Target Normal Cost for Prior year	\$65,000
2. Waiver Amortization Charge for Prior Year	\$153,288
3. Shortfall Amortization Charge for Prior Year	<u>\$592,421</u>
4. Total	\$810,709
5. Unpaid Minimum Required Contribution	\$0
6. Discounted Contributions	\$828,385
7. Funding Balance Offsets	
- Carry Over Balance	\$0
- Pre-Funding Balance	<u>\$0</u>
- Total	\$0
8. Excess Contributions at Beginning of Prior Year	\$17,676
7. Excess Contributions at End of Prior Year	\$18,816
8. Excess Contributions Used for Pre-Funding Balance	\$0

**B. Development of Minimum Contribution (Continued)**

**Minimum Required Contribution**

1. Target Normal Cost	\$75,000
2. Shortfall Amortization Charge	\$671,496
3. Waiver Amortization Charge	\$153,288
4. Total Contribution Before Credit Balance	
From Funding Standard Account	\$899,784
5. Credit Balance/(Funding Deficiency)	\$N/A
6. Minimum Required Contribution at Beginning of Year After Credit Balance	\$899,784
7. Minimum Required Contribution at End of Year Adjusted By the Plans' Effective Interest Rate	\$950,622
8. Maximum Recommended Contribution is Item 3 Adjusted to the End of Year By Plans' Effective Interest Rate	\$950,622

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION IV**

**CONTRIBUTION LEVELS  
(CONTINUED)**

**C. Development of Maximum Deductible Contribution**

1.	Funding Target	\$8,420,283
2.	Target Normal Cost	\$75,000
3.	50% of Funding Target	\$4,210,142
4.	Increase in Funding Target Due To Salary Increase	\$0
5.	Cushion Amount (3 + 4)	\$4,210,142
6.	Total (1 + 2 + 5)	\$12,705,425
7.	Funding Target as if At Risk	\$N/A
8.	Target Normal Cost as if At Risk	\$N/A
9.	Total	\$N/A
10.	Greater of Item 6 and Item 9	\$12,705,425
11.	Plan Assets	\$5,241,082
12.	Maximum Deductible Contribution (10-11)	\$7,464,343
13.	Estimated Plan Termination Shortfall	\$3,690,983

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION V**

**PENSION EXPENSE**

**Determination of Net Periodic Pension Cost. (February 28<sup>th</sup> measurement date)**

1. Service Cost	
a. Normal Cost of Benefits Accruing During the Year	\$75,000
b. Interest at the Discount Rate	4,500
c. Total Service Cost	\$79,500
2. Interest Cost	
a. Projected Benefit Obligation at Beginning of Year	\$7,585,994
b. Expected Benefit Payments (Weighted for Timing)	256,240
c. Average Expected PBO	7,329,754
d. Interest Cost Using the Discount Rate	\$439,785
3. Expected Return on Assets	
a. Market-Related Value at Beginning of Year	\$5,008,778
b. Expected Distributions (Weighted for Timing)	293,740
c. Expected Contributions (Weighted for Timing)	190,500
d. Average Market Value of Assets	4,905,538
e. Expected Return on Assets Using the Long-term Rate of Return	\$367,915
4. Amortization of Transition Liability/(Asset)	\$0
5. Amortization of Unrecognized Net Loss/(Gain)	\$304,248
6. Amortization of Prior Service Cost	\$0
7. Net Periodic Pension Cost/(Income) (1c + 2d - 3e + 4 + 5 + 6)	\$455,618

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

JUNE 1, 2011

**SECTION VI**

**ACTUARIAL PRESENT VALUE OF VESTED AND ACCRUED BENEFITS**

**A. Statement of Actuarial Value of Accumulated Benefits**

	<u>Number</u>	<u>Actuarial Present Value</u>
1. Retired Participants and Beneficiaries Receiving Benefits	184	\$5,067,126
2. Terminated Participants with Deferred Benefits	246	2,534,823
3. Other Vested Participants	<u>0</u>	<u>0</u>
4. Total	430	\$7,601,949
5. Present Value of Non-Vested Benefits	<u>0</u>	<u>0</u>
6. Total Present Value of Accrued Benefits	430	\$7,601,949

**B. Change in Actuarial Present Value of Accumulated Benefits**

Actuarial Present Value of Accumulated Benefits as of the Prior Valuation Date	\$7,807,598
Increase (Decrease)	
- Benefits Paid	\$(778,781)
- Change in the Discount Period	556,366
- Other	<u>16,766</u>
- Total	\$(205,649)
Actuarial Present Value of Accumulated Benefits as of the Current Valuation Date	\$7,601,949



**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION VII**

**DISCLOSURES UNDER THE 2006 PENSION PROTECTION ACT  
IMPACTING PLAN OPERATION AND PLAN FUNDING**

**A. Adjusted Funding Target Attainment Percentage**

(1) Funding Target as of the Current Valuation Date	\$8,420,283
(2) Plan Assets	\$5,240,654
(3) Credit Balance	
- Carryover Balance	\$0
- Prefunding Balance	<u>\$0</u>
- Total	\$0
(4) Adjusted Plan Assets (2)-(3)	\$5,240,654
(5) Adjusted Funding Target Attainment Percent age (4) / (1)	62.23%

The credit balance may not be used to offset the minimum contribution for the current year.

**B. Prior Year Funded Percentage for Purposes of Using the  
Credit Balance to Offset the Funding Requirement**

(1) Funding Target as of the Current Valuation Date	\$7,840,655
(2) Plan Assets	\$4,579,386
(3) Credit Balance	
- Prefunding Balance	\$0
- Total	<u>\$0</u>
(4) Adjusted Plan Assets (2)-(3)	\$4,579,386
(5) Adjusted Funding Target Attainment Percent age (4) / (1)	58.40%

The credit balance may not be used to offset the minimum contribution for the current year.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION VIII**

**STATEMENT OF ACTUARIAL COST METHOD AND  
ACTUARIAL ASSUMPTIONS USED IN THE VALUATION**

**A. Consistency of Methods and Assumptions**

Unless stated to the contrary, the following methods and assumptions are consistent with those used in the preceding valuation.

**B. Actuarial Cost Method**

The actuarial cost method used to calculate the costs of the Plan is known as the Unit Credit Actuarial Cost Method as prescribed under the Pension Protection Act of 2006. Under this method, each active Participant's accrued benefit as of the Valuation Date is calculated and the Actuarial Present Value of that benefit is calculated based on the Actuarial Assumptions. The total of the Actuarial Present Value of Accrued Benefits for all Plan Participants is the basis for the Funding Target.

The Target Normal Cost is determined to be the sum of the Actuarial Present Value of the benefit for each Participant that is expected to be earned during the current year taking into account expected salary increases and other Actuarial Assumptions.

**C. Asset Valuation Method**

For the purpose of the actuarial valuation, assets are valued using market value.

**D. Participants Included in the Calculations**

Based on employee data received from the Employer, all employees who are eligible for participation in the Plan as of the valuation date are included in the calculations.

No liability is held for non-vested, inactive employees who have quit or been terminated even if a break-in-service has not occurred as of the valuation date.

**E. Actuarial Assumptions**

**1. Mortality**

Active and Retired Lives – The 2011 Combined Applicable Mortality Table as prescribed by the IRS. The prior valuation used the 2010 Combined Applicable Mortality Table. The RP2000 Mortality Table, with separate rates for males and females, was used for the FAS ASC 960 figures as well as the Pension Expense under FAS ASC 715.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION VIII**

**STATEMENT OF ACTUARIAL COST METHOD AND  
ACTUARIAL ASSUMPTIONS USED IN THE VALUATION  
(CONTINUED)**

**E. Actuarial Assumptions (continued)**

**2. Withdrawal from Service**

Termination - The rates of termination from Table T-7. Sample rates of termination per 100 Participants are shown below:

Age 25	9.7
Age 40	7.8
Age 55	1.5

Disability - None assumed.

**3. Investment Return**

The investment return for determining the minimum funding for the plan is prescribed by the IRS and is as follows:

2.27% for benefits expected to be paid in 2011-2015  
5.43% for benefits expected to be paid in 2016-2030  
6.34% for benefits expected to be paid in 2031 and beyond.

The effective interest rate for the plan for this plan year based on the above individual rates is 5.65%. The effective interest rate for the prior year was 6.45%.

7.50% pre-retirement and 6.00% post-retirement was used to determine the Actuarial Present Value of Accumulated Benefits under FASB ASC 960 (Formerly SFAS 35).

6.00% was used for the Discount Rate for Purposes of Calculating the Pension Expense under FAS ASC 715, while 7.50% was used for the Long-Term Rate of Return.

**4. Salary Increase**

N/A.

**5. Social Security**

N/A.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION VIII**

**STATEMENT OF ACTUARIAL COST METHOD AND  
ACTUARIAL ASSUMPTIONS USED IN THE VALUATION**  
**(CONTINUED)**

**E. Actuarial Assumptions (Continued)**

**6. Assumed Retirement Age**

Normal Retirement Age or the age on the Valuation Date, if greater.

**7. Expenses**

Assumed to be equal to the average of the prior two years' administrative expenses, rounded to the nearest \$1,000. For this report, that number is \$75,000.

**8. Percentage Married**

For purposes of valuing the pre-retirement death benefits under the plan, 80% of active Participants are assumed to be married with males three years older than their female spouses.

**9. Form of Payment**

90% of all participants are assumed to elect payment in the form of a lump sum to the extent available. The remainder of benefits are paid as an annuity. Lump sum values for funding are calculated using the valuation mortality table and an interest rate of 6%.

**EBER BROS. WINE & LIQUOR CORP.  
RETIREMENT PLAN**

**JUNE 1, 2011**

**SECTION IX**

**PARTICIPANT DATA AS OF THE VALUATION DATE**

A. Active Participants as of the Current Valuation Date		0
Terminated Vested	0	
Terminated Without Vesting	0	
Retirements	0	
Deaths	0	
Adjustments	0	
Transferred to Inactive Status	0	
Returned to Active Status	0	
New Entrants	0	
Active Participants as of the Current Valuation Date		0
B. Inactive Participants as of the Prior Valuation Date		0
Transferred to Active Status	0	
Retired	0	
New Inactive Participants	0	
Inactive Participants as of the Current Valuation Date		0
C. Terminated Vested Participants as of the Prior Valuation Date		259
Paid Lump Sum	(2)	
Adjustment	1	
Retired	(12)	
New Terminated Vested	0	
Terminated Vested Participants as of the Current Valuation Date		246
D. Retired Participants as of the Prior Valuation Date		173
Adjustments	0	
Died	(1)	
New Retirees	12	
Retired Participants as of the Current Valuation Date		184
E. Total Plan Participants		430

*Unaudited & subject to review*

**Eber Wine & Liquor Corp.**  
**Balance Sheet - Collapsed**  
 As of May 31, 2011

	<u>May 31, 11</u>
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
1001 · Checking/Savings	-5,165.04
Total Checking/Savings	-5,165.04
Accounts Receivable	
1202 · Accounts Receivable	41,356.74
Total Accounts Receivable	41,356.74
Other Current Assets	
1303 · Interco Accounts	2,808,773.99
Total Other Current Assets	2,808,773.99
Total Current Assets	2,844,965.69
Fixed Assets	
1340 · Leasehold Improvements	7,000.00
Total Fixed Assets	7,000.00
Other Assets	
1602 · Letters of Credit	450,000.00
Total Other Assets	450,000.00
<b>TOTAL ASSETS</b>	<u><u>3,301,965.69</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2061 · Total Accounts Payable	686,978.26
Total Accounts Payable	686,978.26
Other Current Liabilities	
2026 · Other Current Liability	365,206.14
2027 · Accrued Taxes	21,002.00
Total Other Current Liabilities	386,208.14
Total Current Liabilities	1,073,186.40
Long Term Liabilities	
1603 · Investments in Subs	3,738,828.28
2048 · Due to Affiliates	198,163.09
Total Long Term Liabilities	3,936,991.37
Total Liabilities	5,010,177.77
Equity	
2601 · Equity	-323,488.23
2650 · Retained Earnings Account	14,408,743.54
Net Income	-15,793,467.39
Total Equity	-1,708,212.08
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>3,301,965.69</u></u>

UNAUDITED &amp; SUBJECT TO REVIEW

**Eber Wine & Liquor Corp.**  
**Statement of Revenues and Expenses**  
Income Tax Basis - June 2010 through May 2011

	Jun '10 - May '11
Ordinary Income/Expense	
Expense	
2351 · Expenses	
4040 · License Expiration	435.00
4043 · Rent Expense	77,846.09
4060 · Business Meals	13.78
4110 · Travel Expense Sales	162.00
4112 · Travel Expense Corporate	528.71
4231 · Benefits Insurance - G&A	1,902.08
4236 · W/C & Disability - G&A	98,189.57
4240 · Legal & Accounting	269,775.83
4260 · Office Expense & Supplies	13,288.71
4270 · Office Salaries	138,757.39
4290 · Computer Rental & Supplies	4,000.00
4300 · Sundry Expense	5,686.12
4362 · NYS Unemployment Ins - Warehous	-690.94
4405 · Pension Costs	1,240.00
4410 · Pension Fund Expense - Union	1,582,000.00
4490 · Bad Debts Expense	15,454.86
4511 · State Tax - NY	47,664.00
Total 2351 · Expenses	2,256,253.20
Total Expense	2,256,253.20
Net Ordinary Income	-2,256,253.20
Other Income/Expense	
Other Income	
3170 · Bad Debts Collected	2,628.00
3200 · Settlement of Accounts Payable	10,911.54
3220 · Insurance Reimbursement	38,684.30
3310 · Interest Income	617.54
3405 · Subsidiary Income (Loss)- Metro	-14,919,961.00
4505 · Federal Tax	1,177,147.04
8050 · Gain on Sale of Assets	14,000.00
8060 · Admin Fees	138,758.39
Total Other Income	-13,537,214.19
Net Other Income	-13,537,214.19
Net Income	-15,793,467.39

See Accountants' Compilation Report

Thanks,  
Wendy

**From:** Michael Gallagher [<mailto:mafg@bmi-online.com>]  
**Sent:** Monday, March 04, 2013 10:21 AM  
**To:** Wendy Eber  
**Cc:** Thomas S. Gigot ([tgigot@groom.com](mailto:tgigot@groom.com))  
**Subject:** Form 200 - PBGC

Wendy,

I was in the process of getting the paperwork together for the PBGC and because the total missed deposit is now in excess of \$1M, they require that a Form 200 be filed instead of a Form 10. This also means that they may put a lien on some of the company assets for the missed funding.

I have attached the Form 200, the Actuarial Valuation, the Schedule SB, and the copy of the IRS Waiver. Please review items 4 and 5 of the form and if anything is needed for them, you will need to provide that information. Also, item 10 is requesting information on financial statements, SEC filings, and bankruptcy information. You will need to attach any of those documents as well.

Since this is a Form 200, and not a Form 10, it was to be filed 10 days after the missed payment, which would have been February 25. So you will need to sign and date on page 4 and file, as soon as possible, at the following address:

Pension Benefit Guaranty Corporation  
Corporate Finance & Restructuring Department  
1200 K Street, NW  
Washington, DC 20005-4026

... or you can e-mail everything to them at [form200@pbgc.gov](mailto:form200@pbgc.gov). If the attachments are larger than 10 megabytes, you will need to file them via the website "[pbgc.leapfile.com](http://pbgc.leapfile.com)". You click on secure upload and then enter [form200@pbgc.gov](mailto:form200@pbgc.gov) in the recipient email field.

Let me know if you have any questions.

Mike

Michael A. Gallagher, President  
Enrolled Actuary  
Associate, Society of Actuaries  
Member, American Academy of Actuaries  
Member, American Society of Pension Professionals & Actuaries

Benefits Management, Inc.  
355 Packett's Landing  
Fairport, New York 14450  
Phone (585) 425-4333 x-101  
FAX (585) 425-4514

web site <http://www.bmi-online.com>

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**Wendy Eber**

---

**From:** Michael Gallagher <mafg@bmi-online.com>  
**Sent:** Wednesday, March 13, 2013 9:45 AM  
**To:** Wendy Eber  
**Subject:** RE: Form 200 - PBGC

Wendy,

The missed quarterly on March 15<sup>th</sup> was \$224,946.

However, the total amount due as of that date would be the missed quarterlies from September, December, and March (\$674,838) PLUS the missed deposit for February of \$805,119.

I'm not sure what you are using the numbers for, so you may need to disclose the full amount of missed deposits vs. just the March missed deposit.

Mike

**From:** Wendy Eber [<mailto:weber@slocumandsons.com>]  
**Sent:** Wednesday, March 13, 2013 9:29 AM  
**To:** Michael Gallagher  
**Subject:** Re: Form 200 - PBGC

Thanks. What about the payment due March 15?  
Sent from my Verizon Wireless BlackBerry

**From:** Michael Gallagher <mafg@bmi-online.com>  
**Date:** Wed, 13 Mar 2013 08:50:44 -0400  
**To:** Wendy Eber <[weber@slocumandsons.com](mailto:weber@slocumandsons.com)>  
**Subject:** RE: Form 200 - PBGC

Wendy,

The amount of the payment due on 02/15/13 for the plan year ended May 31, 2012 was \$805,119.

Let me know if you need anything else.

Mike

**From:** Wendy Eber [<mailto:weber@slocumandsons.com>]  
**Sent:** Tuesday, March 12, 2013 7:13 PM  
**To:** Michael Gallagher  
**Subject:** RE: Form 200 - PBGC

Mike,

How much was the missed payment for February?

## Wendy Eber

---

**From:** Dettmer Adam <Dettmer.Adam@pbgc.gov>  
**Sent:** Tuesday, March 02, 2010 7:02 PM  
**To:** Wendy Eber  
**Subject:** RE: Acturial report as of 6/1/06- Eber Bros.

Wendy – In addition to the 3/31/2007 plan asset statement, can you please also provide the 2006 active participant age/service scatter (this is an attachment to the Schedule B) and the inactive benefit amounts from 2006?

Please let me know if you have any questions.

Thanks,

Adam C. Dettmer  
Department of Insurance Supervision and Compliance  
Pension Benefit Guaranty Corporation  
1200 K Street, N.W.  
Washington, D.C. 20005-4026  
Ph: 202-326-4000 ext. 3824  
Fax: 202-842-2643

---

**From:** Wendy Eber [mailto:w.eber@eberbros.com]  
**Sent:** Friday, February 26, 2010 8:53 AM  
**To:** Dettmer Adam  
**Subject:** FW: Acturial report as of 6/1/06- Eber Bros.

Adam

Per your request, see attached document. I am still looking for the other request.

Wendy

---

**From:** Michael A. Gallagher [mailto:mafg@bmi-online.com]  
**Sent:** Thursday, February 25, 2010 3:53 PM  
**To:** Wendy Eber  
**Subject:** RE: Acturial report as of 6/1/06

Wendy,

Here it is.

Mike

---

**From:** Wendy Eber [mailto:w.eber@eberbros.com]  
**Sent:** Wednesday, February 24, 2010 4:47 PM  
**To:** mavg@bmi-online.com  
**Subject:** Acturial report as of 6/1/06

Mike

Could you scan a copy of this report and email to me?

Thanks,  
Wendy

**janet lissow**

---

**From:** Michael Gallagher [mailto:mafg@bmi-online.com]  
**Sent:** Friday, April 25, 2014 9:03 AM  
**To:** janet lissow  
**Subject:** James Tarrant - Survivor Benefit  
**Attachments:** Tarrant-J.pdf; BC-Notice.pdf; BC-Special Tax Notice.pdf; BC-W4P14.pdf  
Janet

Attached is the paperwork for the spouse of James Tarrant. She was eligible to begin payment as of the first of the month after his death, i.e., 07/01/13. So she will need to receive back payments for each missed month in the amount of \$173.16.

Let me know if you have any questions.

Mike

Michael A. Gallagher, President  
Enrolled Actuary  
Associate, Society of Actuaries  
Member, American Academy of Actuaries  
Member, American Society of Pension Professionals & Actuaries

Benefits Management, Inc.  
355 Packett's Landing  
Fairport, New York 14450  
Phone (585) 425-4333 x-101  
FAX (585) 425-4514

web site <http://www.bmi-online.com>

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Be aware that this material (including any attachments), to the extent it discusses any issue that relates to tax matters, is not intended by Benefits Management, Inc. to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.

4/29/2014

EB-00020898

**Janet Lissow**

**From:** Wendy Eber  
**Sent:** Monday, April 28, 2014 10:14 AM  
**To:** janet lissow  
**Subject:** RE: James Tarrant - Survivor Benefit  
Thanks. Please do not send out.

**From:** janet lissow  
**Sent:** Monday, April 28, 2014 10:13 AM  
**To:** Wendy Eber  
**Subject:** FW: James Tarrant - Survivor Benefit  
**Importance:** High

Mike has calculated Mrs. Tarrants benefit. Can I send this out?

**Janet Lissow**

[jlissow@slocumandsons.com](mailto:jlissow@slocumandsons.com)

Administrative Assistant

**Lester Eber**

95 Allens Creek Rd.

Bldg 2 Suites 10 & 11

Rochester, NY 14618-3252

Ph: (585) 360-4240

Fax: (585) 360-4211

**From:** Michael Gallagher [<mailto:mafq@bmi-online.com>]  
**Sent:** Friday, April 25, 2014 9:03 AM  
**To:** janet lissow  
**Subject:** James Tarrant - Survivor Benefit

Janet

Attached is the paperwork for the spouse of James Tarrant. She was eligible to begin payment as of the first of the month after his death, i.e., 07/01/13. So she will need to receive back payments for each missed month in the amount of \$173.16.

Let me know if you have any questions.

Mike

Michael A. Gallagher, President  
Enrolled Actuary  
Associate, Society of Actuaries  
Member, American Academy of Actuaries  
Member, American Society of Pension Professionals & Actuaries

Benefits Management, Inc.  
355 Packett's Landing  
Fairport, New York 14450  
Phone (585) 425-4333 x-101  
FAX (585) 425-4514

4/28/2014

4/28/14  
10:19am  
Per Phone  
Call - Wendy  
said to send

PLAINTIFF'S  
EXHIBIT

238

**Wendy Eber**

**From:** Bai Helen <Bai.Helen@pbgc.gov>  
**Sent:** Wednesday, November 02, 2011 11:04 AM  
**To:** Wendy Eber  
**Cc:** Michael A. Gallagher  
**Subject:** RE: Eber Bros. Wine and Liquor Corp.

Thanks so much, Wendy. I don't recall receiving this and will review and get back to you if I have questions.

Helen

---

**From:** Wendy Eber [mailto:weber@slocumandsons.com]  
**Sent:** Wednesday, November 02, 2011 11:00 AM  
**To:** Bai Helen  
**Cc:** Michael A. Gallagher  
**Subject:** FW: Eber Bros. Wine and Liquor Corp.

Helen,

As you requested, I sent the email below to you on Friday October 28<sup>th</sup> but, it appears that you may have not received it so I am resending it.

Regards,  
Wendy Eber

---

**From:** Wendy Eber  
**Sent:** Friday, October 28, 2011 5:21 PM  
**To:** Bai Helen  
**Subject:** Eber Bros. Wine and Liquor Corp.

Dear Ms. Bai:

This is in further response to your October 21, 2011 email message.

(1) I asked our actuary, Mike Gallager, to collect the additional contribution information that you requested. Mike tells me that all of that additional information is shown on the attached spreadsheet.

(2) As for the "4062(e)" information that you requested, the Company does not believe that any such liability-tiggering event occurred here. What happened, from the Company's perspective, is that Southern Wine and Spirits commandeered our key personnel and our customer and supplier relationships. By doing so, Southern effectively took our business away from us. We did not seek to close operations or lay people off. The events in question happened long ago. I worked as a Sales Manager in the Albany division at that time. I did not manage the Company at that time, and I do not have personal knowledge of all of the facts about which employees left, why they left, or wheter and when they started up with Southern. I have reached out to the Company's Former Plan Administrator in an effort to collect that kind of information for you. Based on my conversation with our former Plan Administrator earlier this month he was not able to direct me to anything along the lines you seek. Although I am willing to consider searching for the additional information that you seek, I question its value, especially at this date. My impression from our prior conversations is that the PBGC wants to use this information to contstruct a formal "4062(e)" demand for a bond, escrow or other value with respect to a March "WARN" notice. You have our financial records, and can see that our Company does not have the financial capacity to provide any such collateral. Nor does our Company have any intention at this time of seeking to terminate the Pension Plan- much less to terminat the Plan within five years of March 2007. Our objective is to rebuild the business



and strengthen the Company. We respectfully suggest that the Pension Plan will best be protected by allowing us to continue with our rebuilding efforts.

Regards,

Wendy Eber

**Wendy Eber**

---

**From:** Bai Helen <Bai.Helen@pbgc.gov>  
**Sent:** Friday, October 21, 2011 11:44 AM  
**To:** Wendy Eber  
**Subject:** Eber Brothers Wine and Liquor  
**Attachments:** Pension contributions.xls

Wendy,

I've received the Form 10 you submitted for the 9/15/11 quarterly missed contribution. To help me better understand how much required contributions have been missed historically, please complete the attached spreadsheet. Please focus on the historical information in the top panel. I called the Plan actuary, Michael Gallagher, earlier this week for the information and left him a voice mail but have not heard back from him.

Also, we last heard from your attorney, Tom Gigot, on 9/17/11 regarding the Company's assertion that some employees left voluntarily rather than being let go. We have not yet received any more information since then to support that assertion and it has been more than a month. What is your estimate of the number of employees who left voluntarily and when do you expect to have the supporting information available?

Please provide the historical contributions information by next Friday, October 28<sup>th</sup>, and address the 4062(e) questions as soon as possible.

Thank you and please feel free to contact me with any questions or concerns.

Helen

**Benefits****Management****Inc.**

355 Packett's Landing

Fairport, New York 14450-1567

Phone:

(585) 425-4333

Fax:

(585) 425-4514

e-mail:

mafg@bmi-online.com

Home Page:

www.bmi-online.com

December 19, 2018

Ms. Wendy Eber  
 Slocum & Sons, Inc.  
 30 Corporate Drive  
 North Haven, CT 06473

Dear Wendy:

I am writing in response to your request for us to provide the plan termination liability for the Eber Bros. Wine & Liquor Corp. Retirement Plan as of June 1, 2012.

Our calculations are based on data provided to us by Eber Bros. Wine & Liquor Corp on an annual basis. The accrued benefits that were part of the data were calculated by the prior actuary at the time that the plan benefits were frozen, which was December 31, 2000.

As of June 1, 2012, the data was made up of 185 participants in pay status and 240 participants who were no longer active employees but who were entitled to future benefits under the plan.

The actuarial assumptions for purposes of calculating lump sum payments are identified in the plan document and are as follows:

Mortality	The 2012 Applicable Mortality Table
Interest	1.59% for payments commencing in the next 5 years
	4.12% for payments commencing in 6-20 years
	5.04% for payments commencing in years 21 and beyond

Utilizing the above information, we calculated the following liabilities:

In Pay Status:	\$6,268,918
Entitled to Future Benefits	<u>\$3,554,259</u>
Total	\$9,823,177

The liability of \$9,823,177 represents the amount needed as of June 1, 2012 to provide a lump sum payment to each participant under the plan which would satisfy the plan's liability for all benefits to all participants.

Be aware that this material (including any attachments), to the extent it discusses any issue that relates to tax matters, is not intended to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on a taxpayer.

Ms. Wendy Eber – Page 2  
December 19, 2018

The corresponding plan assets held at Canandaigua National Bank as of 05/31/2012 were reported to us by the bank to be \$4,759,789.

Therefore, if the plan were funded with an additional deposit of \$5,063,388 as of June 1, 2012, the plan could have terminated under the standard termination procedures of the Pension Benefit Guaranty Corporation.

Please let me know if the above information is sufficient for your needs.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Michael A. Gallagher, President  
Associate, Society of Actuaries

12/13/2017

Gmail - Fw: Dan Kleeberg's Benefit



Dan Kleeberg &lt;dkleeberg@gmail.com&gt;

**Fw: Dan Kleeberg's Benefit**

1 message

**Wendy Eber** <weber@slocumandsons.com>  
 Reply-To: Wendy Eber <weber@slocumandsons.com>  
 To: Dan Kleeberg <dkleeberg@gmail.com>

Fri, Aug 29, 2014 at 8:23 AM

FYI

-----Original Message-----

From: Michael A. Gallagher  
 To: Wendy Eber  
 Subject: RE: Dan Kleeberg's Benefit  
 Sent: Aug 29, 2014 8:19 AM

Wendy,

The maximum benefit guaranteed by the PBGC at age 65, based on the 2010 date the PBGC is suggesting, was \$4,500/Month. If we reduce it to age 58, which would have been Dan's age at the start of the benefit, the maximum is about \$2,700/Month. So without doing some detailed research, it seems that his benefit is less than the maximum guaranteed and so it should not be reduced.

The PBGC would have the final say on any benefit reductions.

Were you looking for something else?

Any update on our outstanding bill?

Mike

&gt; -----Original Message-----

&gt; From: Wendy Eber [mailto:weber@slocumandsons.com]

&gt; Sent: Thursday, August 28, 2014 5:26 PM

&gt; To: Michael Gallagher

&gt; Subject: Dan Kleeberg's Benefit

&gt;

&gt; Mike,

&gt;

&gt; Would you be able to calculate the value of Dan Kleeberg's benefit? He is 62

&gt; years old and currently receives 2100 per month and he wanted to find out

&gt; if he would receive his entire benefit when the PBGC takes over the plan.

&gt; The PBGC is thinking about using a Feb 2010 termination date for the plan.

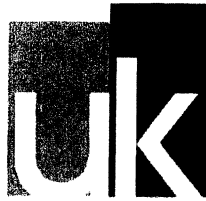
&gt;

&gt; Thanks

&gt; Wendy

&gt; Sent from my Verizon Wireless BlackBerry

Sent from my Verizon Wireless BlackBerry



underberg & kessler LLP

PAUL F. KENEALLY, PARTNER  
(585) 258-2882  
pkeneally@underbergkessler.com

July 10, 2019

**VIA E-MAIL & FIRST-CLASS MAIL**

Brian C. Brook, Esq.  
Brook & Associates, PLLC  
100 Church Street, Floor 8  
New York, New York 10007

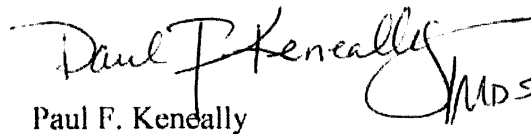
**RE: Daniel Kleeberg, Lisa Stein and Audrey Hays v. Lester Eber, et al.  
Civ. Action No.: 16-cv-9517**

Dear Mr. Brook:

Enclosed and served upon you please find the letter dated December 19, 2018 to Wendy Eber from Michael Gallagher at Benefit Management Inc. referenced in the table on page 12 of the Eber Defendants' Expert Report dated June 28, 2019 which has been Bates-stamped EB-00035551 – EB-00035552.

Please note that pursuant to the Stipulated Protective Order, we deem all documents containing any financial information regarding any Eber Defendants included in this production as confidential.

Very truly yours,

  
Paul F. Keneally

PFK/mds  
Enclosure

cc: Robert Calihan, Esq. (w/ enc. via e-mail and First Class Mail)  
Donald O'Brien, Esq. (w/ enc. via e-mail and First Class Mail)